IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

APPEAL FROM ORDER NO. 943 OF 2007

IN

NOTICE OF MOTION NO. 3485 OF 2004

IN

S.C. SUIT NO. 4948 OF 1981

Vishal Land Development Corporation .. Appellants

Vs.

Ganpat Bhiva Bhoir

(since deceased) and 30 Ors. .. Respondents

Mr. N.G.Chhatre,Advocate, for the appellants.

Mr.Rajesh Dixit, Advocate, for respondent Nos.1 to 5.

CORAM: J.H.BHATIA,J.

DATE: 17th December,2007.

P.C.

1. Heard learned Counsel for the parties.

2. The appellant was defendant No.5 in Suit No.4948 of 1981. That suit was filed by the plaintiff initially

against defendants Nos. 1 to 4 for partition of the family property. Later on, defendant no.5 was impleaded as such because he claimed to have acquired certain rights in the said property for which he had filed Suit Nos.554 and 555 of 1992 before the High Court for specific performance of the contract. The appellant took out Notice of Motion No.3485 of 2004 and sought stay of the proceedings in Suit No.4948 of 1981 contending that the said suit should not be proceeded with till the decision of the two suits i.e. suit NOs.554 and 555 of 1992 filed by him. This Notice of Motion was rejected by the City Civil Court on the ground that Suit No.4948 of 1981 was filed prior in time and it is pending for last about 25 years.

3. After hearing the parties and taking into consideration the circumstances, I find no fault in the impugned order.

The Appeal stands dismissed.

4. As the Appeal itself is dismissed, the C.A. No.1296 of 2007 does not survive and stands disposed of.

(J.H.BHATIA,J.)